

RETURN DATE: JANUARY 25, 2022	:	SUPERIOR COURT
	:	
NEW CANAAN PRESERVATION ALLIANCE, INC.	:	
and KKF LLC	:	J.D. OF STAMFORD-
	:	NORWALK
VS.	:	
	:	AT STAMFORD
TOWN OF NEW CANAAN PLANNING	:	
& ZONING COMMISSION and	:	
THE NEW CANAAN LIBRARY, INC.	:	JANUARY 5, 2022

SUMMONS AND CITATION

BY AUTHORITY OF THE STATE OF CONNECTICUT, you are hereby commanded to summon the **Town of New Canaan Planning & Zoning Commission**, 77 Main Street, New Canaan, Connecticut, and **The New Canaan Library, Inc.**, 151 Main Street, New Canaan, Connecticut, to appear before the Superior Court for the Judicial District of Stamford-Norwalk at Stamford on the Return Date, said appearances to be made by filing written appearances with the Clerk of said Court on or before the second day following said Return Date, then and there to answer unto the complaint and appeal of **New Canaan Preservation Alliance, Inc.**, 137 Elm Place, New Canaan, Connecticut, and **KKF LLC**, 16 South Avenue, New Canaan, Connecticut, as follows:

By leaving two true and attested copies of the complaint and appeal and this citation and summons and recognizance with the Town Clerk of the Town of New Canaan and directing said Clerk to retain one copy and forward the second copy to the Town of New Canaan Planning & Zoning Commission, and by serving The New Canaan Library, Inc., at least twelve (12) days before said Return Date and due return make, in the manner provided by law for the service of civil process.

Plaintiffs, New Canaan Preservation Alliance, Inc., and KKF LLC, as principals, and Patricia Iacozza, 1115 Broad Street, Bridgeport, Connecticut as surety, are jointly and severally

recognized in the sum of \$500.00 to prosecute this appeal to effect and to comply with the orders and decrees of this Court.

Hereof fail not, but of this writ with your doings thereon due service and return make.

Dated at Bridgeport, Connecticut, on this 5th day of January, 2022.



Philip C. Pires, Esq.
Commissioner of the Superior Court

Please enter the appearance of
Cohen and Wolf, P.C. for the Plaintiffs:

Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604
Tel: 203-368-0211
E-Mail: psullivan@cohenandwolf.com
E-Mail: ppires@cohenandwolf.com
Juris No. 010032
Its Attorneys

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APPEAL AND COMPLAINT

To the Superior Court for the Judicial District of Stamford-Norwalk at Stamford comes New Canaan Preservation Alliance, Inc., 137 Elm Place, New Canaan, Connecticut, and KKF LLC, 16 South Avenue, New Canaan, Connecticut, appealing from a decision of the Town of New Canaan Planning & Zoning Commission, 77 Main Street, New Canaan, Connecticut, who complain and say:

1. The Plaintiff, New Canaan Preservation Alliance, Inc. (the “Alliance”) is a tax-exempt section 501(c)(3) not-for-profit organization. Together, KKF and Alliance are hereinafter referred to as the “Plaintiffs.” The Alliance’s specific corporate purposes are to: i) inform residents of the Town of New Canaan (the “Town”) and other persons of issues concerning historic structures and sites in the Town; ii) take such action as may be appropriate to preserve historic structures and sites in the Town; and iii) buy and own properties to preserve, maintain, repair, rehabilitate and accumulate funds to do so.

2. The Plaintiff, KKF LLC, (“KKF”) is the owner of certain real property known as 16 South Avenue, New Canaan, Connecticut.

3. The Defendant, Town of New Canaan Planning & Zoning Commission, (the “Commission”) is the administrative agency of the Town charged pursuant to the provisions of the Connecticut General Statutes and the Zoning Regulations of the Town (the “Zoning

Regulations”), with, among other powers, the authority to hear and act upon applications to amend the provisions of the Zoning Regulations.

4. The New Canaan Library, Inc. (the “Library”) is the owner of library site that is more commonly known as 151 Main Street, New Canaan (and which includes certain other parcels of real estate), at which it operates a public library. A portion of the structure constituting the Library was originally constructed in 1913 (the “1913 Library”) with an addition in 1936 (the “1936 Addition”). The 1913 Library is of community, cultural, and historic importance to the Town.

5. On or around February 26, 2021, the Library submitted applications to the Commission (together, the “Applications”) seeking:

- a. To amend the Zoning Regulations to include a new section 5.10 establishing a “quasi-public library overlay zone,” as well as amendments to Section 2.2 of the Zoning Regulations.
- b. A change in the Zoning Boundary for properties currently in the Business A and Apartment Zone to designate the properties “LZ” (“Quasi-Public Library Overlay”).
- c. Site Plan approval pursuant to Section 8.2.A of the Zoning Regulations and new Section 5.10.G.7 of the proposed “Quasi-Public Library Overlay Zone,” and a Special Permit pursuant to Sections 8.2.B, 4.4.D.3, 5.4.C.4, 6.4.G., 6.6.D., and proposed Section(s) 5.10.C., D., 5.10.G.3.b., 5.10.G.7. and 8 of the proposed Quasi-Public Overlay Zone Regulations, to allow removal of an existing ±35,688 square foot library building and on-site parking, and construct a new ±42,641 gross square feet new library building, a new 21,700

square feet “library green” (“private park”) open to the public, and associated site infrastructure and landscaping improvements.

6. On or around July 13, 2021, the Commission voted to approve the Applications with certain conditions (the “Approval”).

7. Notice of the Commission’s decision was published in the *New Canaan Advertiser* on July 22, 2021.

8. Condition 8 of the Approval provides: “Within a hundred and twenty days (120) after the effective date of approval the New Canaan Library shall work with the Town Planner and if desired by the Commission or Town Planner, an external adviser, hired by the Town and paid for by the Library to present options to preserve appropriate portions of the existing library building older than 1937. Appropriate items recommended, by the Commission, for preservation could include, the façade, pillars and roof line of the pre-1937 buildings.”

9. Condition 9 of the Approval provides: “The final preservation option plan shall be reviewed by the Town Planner and shall be brought back to the Commission, for approval prior to the implementation of the plan.”

10. Plaintiffs appealed from the action of the Commission granting the applications in an appeal captioned New Canaan Preservation Alliance, Inc., et al. v. The Town of New Canaan Planning & Zoning Commission, et al., Docket Number FST-CV21-6053018-S. That appeal is still pending.

11. On December 9, 2021, the Library submitted a proposal to the Commission (the “Proposal”) which “intended to satisfy special permit condition nos. 8 & 9 that the New Canaan Planning and Zoning Commission granted to the Library on July 13, 2021.”

12. The Proposal contemplates the relocation of a portion of the 1913 Library eighty feet away from to the new Library, and five feet from the property line between the Library and a neighboring gas station.

13. The Proposal contemplates demolishing the 1936 Addition, and relocating only a portion of the original 1913 Library.

14. On or around December 14th, 2021, the Commission voted to approve the Proposal, finding that the Proposal satisfied Condition 8 and Condition 9 of the Approval (the “Condition Approval”).

15. Notice of the Commission’s Condition Approval was published in the *New Canaan Advertiser* on December 23, 2021.

16. The action of the Commission in granting the Condition Approval was illegal, unlawful, arbitrary, capricious, and/or an abuse of the power and authority vested in the Commission pursuant to the Connecticut General Statutes for one or more of the following reasons:

- a. The Condition Approval is contrary to the Town’s Plan of Conservation and Development (the “Plan”), including, but not limited to, its overriding theme to “Preserve Historic Resources”; Chapter 3 of the Plan which aspires to “preserve and enhance community character,” and Chapter 6 of the Plan.
- b. The Condition Approval is contrary to section 1.2(c) of the Zoning Regulations which encourages “[p]rotecting the character and the historic, social and economic stability of all parts of the Town and ensuring that development is orderly and beneficial.”

- c. The Condition Approval is contrary to the Village District sections of the Zoning Regulations, which emphasize the preservation of historic, traditional, or significant structures and/or architectural elements.
- d. The Condition Approval violates the Connecticut General Statutes, including, but not limited to, Conn. Gen. Stat. § 8-2, which encourages the “protection of historic factors.”
- e. The Condition Approval violation Conn. Gen. Stat. § 8-2j, which, *inter alia*, requires that the “removal or disruption of historic traditional or significant structures or architectural elements shall be minimized.”
- f. The Condition Approval relocates part of the 1913 Library, which is not “in situ” preservation. The relocation of the 1913 Library is not consistent with any understanding or definition of “historic preservation” pursuant to the National Historic Preservation Act (16 U.S.C. § 470, *et seq.*), the New Canaan Plan of Conservation and Development, the New Canaan Zoning Regulations, or the Secretary of the Interior’s Standards for Rehabilitation (36 C.F.R. 67).
- g. The Commission did not make required findings of fact or identify sufficient or adequate reasons for its actions pursuant to the Zoning Regulations, the Connecticut General Statutes, and/or the common law of the State of Connecticut.
- h. The Commission’s decision was not supported by substantial evidence in the record; and
- i. Such other reasons as may be determined by the Return of Record.

17. The Alliance is classically aggrieved because it was formed for the specific purposes of preserving buildings and structures of historic significance in the Town and taking such action as may be appropriate to preserve historic buildings and structures in the Town. Moreover, its members include residents and taxpayers of the Town who also have a specific, personal interest in preserving buildings and structures of historic and cultural significance in the Town. Therefore, the Alliance has a specific, personal, and legal interest in the subject matter of the Condition Approval, as opposed to a general interest that all members of the community share, and accordingly, the Alliance is classically aggrieved.

18. As the owner of the real property known as 16 South Avenue, New Canaan, Connecticut, which is within 100 feet of the Library property, KKF is statutorily aggrieved as a result of the action of the Commission in granting the Condition Approval.

WHEREFORE, the Plaintiffs pray for a judgment in its favor awarding the following relief:

1. That the Court sustain the Appeal in favor of the Plaintiffs;
2. That the Court enter an order finding the Commission's action in issuing the Condition Approval to be unlawful and null and void, and directing the Commission to deny the Proposal;
3. Costs of this appeal pursuant to Conn. Gen. Stat. § 8-8(I); and
4. Such other and further relief as the Court deems just and proper.

THE PLAINTIFFS,
NEW CANAAN PRESERVATION
ALLIANCE, INC. and KKF LLC

By: 

Patricia C. Sullivan, Esq.
Philip C. Pires, Esq.
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604
Tel. No. (203) 368-0211
E-Mail: psullivan@cohenandwolf.com
E-Mail: ppires@cohenandwolf.com
Juris No. 010032

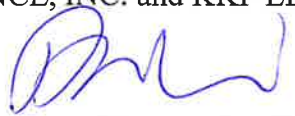
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RECOGNIZANCE AND BOND

You, New Canaan Preservation Alliance, Inc., 137 Elm Place, New Canaan, Connecticut and KKF LLC, 16 South Avenue, New Canaan, Connecticut, as principals, and Patricia Iacozza, 1115 Broad Street, Bridgeport, Connecticut 06604, as surety, acknowledge itself jointly and severally bound unto the Defendants in a recognizance of \$500.00 that the Plaintiffs shall prosecute this appeal to full effect, and that the Plaintiffs shall pay any costs for which judgment may be rendered against it thereon.

**THE PLAINTIFFS,
NEW CANAAN PRESERVATION
ALLIANCE, INC. and KKF LLC**

By: _____


Patricia C. Sullivan, Esq.
Philip C. Pires, Esq.
Cohen and Wolf, P.C.
1115 Broad Street
Bridgeport, CT 06604
Tel. No. (203) 368-0211
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STATEMENT RE: AMOUNT IN DEMAND

The Plaintiffs claim other relief in addition to or in lieu of money or damages.

**THE PLAINTIFFS,
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